

COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS

April 2, 2002

5:30 PM

Chairman Gatsas called the meeting to order.

The Clerk calls the roll.

Present: Aldermen Gatsas, Guinta, Osborne, Forest, O’Neil

Messrs: T. Arnold, J. Reese, J. White, L. LaFreniere, F. Ruscsek

Chairman Gatsas addressed Item 3 of the agenda:

Communication from the “Friends of the Manchester Animal Shelter”
submitting proposed Lease and Service Agreements.

Chairman Gatsas stated I noticed on this lease they are looking for a one-year and a four-year renewal and I don’t know what the Board’s desire is. Tom, have you talked to them?

Deputy Solicitor Arnold stated I spoke to him briefly today. The terms may be renewed for four additional one-year periods.

Chairman Gatsas asked did they give you any suggestion that they may want to go into a long-term basis so that we don’t have to continue looking at it on a yearly basis. Maybe give them a five and a five?

Deputy Solicitor Arnold answered originally he indicated to me that they wanted to renew it for two years so I had him write a letter to the Clerk. He didn’t indicate anything longer than that but I can certainly discuss it with him if the Committee so desires.

Chairman Gatsas asked and they are at the same rates they were two years ago.

Deputy Solicitor Arnold answered I believe that is correct, yes.

Chairman Gatsas asked so they are not looking for an increase.

Alderman O’Neil moved to table this item and refer it to the City Solicitor’s Office to determine whether or not the “Friends of the Manchester Animal Shelter” are interested in a longer-term lease.

Chairman Gatsas stated I don't know if we want to...we may want to look at something like instead of just locking into a five year deal maybe we should, if we are going to give them a long-term lease maybe we should look at something with a CPI or discuss something with them so that at the end of next year or the year after there is some sort of increase. I don't want them to think that we are locking them in for a five-year lease at the same number but you can talk to them and if they don't have a problem with that, Tom, you can report back to us.

Alderman Osborne duly seconded the motion. Chairman Gatsas called for a vote on the motion to table. There being none opposed, the motion carried.

Chairman Gatsas addressed Item 4 of the agenda:

Communication from Mr. Jerry Reese, AT&T Broadband, regarding the franchise fee increase.

Chairman Gatsas stated we have all just received a letter from Mr. Reese. Let's take a few minutes to read it.

Deputy Solicitor Arnold stated I have not had a chance to research this particular issue. I would have to look at the FCC's decision. I was aware, through the General Trade Press, that they had classified this type of service as an information service, not a telecom service, however, I am not sure that I agree with the conclusion that because of the FCC's ruling that a franchise fee is no longer due. I would note that our contract has special language regarding the income from cable modem service and I will have to review that in light of AT&T's letter and get back to the Committee.

Mr. Jerry Reese stated I am the Manager of Government Affairs for AT&T Broadband and I would like to introduce Jim White, my colleague.

Mr. Jim White stated I am a Senior Attorney with AT&T Broadband and I work on rate and regulatory matters.

Chairman Gatsas asked can you explain...I guess there is some question about the rate increase or the fee. Can you explain the letter?

Mr. White stated the letter that Mr. Reese sent to you discusses a rate increase due to an increase in the franchise fee percentage. The increase in the franchise fee percentage has two components to it. The first component is what we call "fee on fee." In 1997 there was a decision in the Fifth Circuit overturning a decision by the Federal Communications Commission. This circuit was ruling on what the term "gross revenues" means in the context of a cable license. Most cable franchises require the cable operators to pay franchise fees on gross revenues. The question before the court was whether franchise fees themselves are revenues and

if they are, obviously, you are paying in Manchester's case it is 5% and are you paying 5% just on revenues or are you paying 5% on the revenues plus 5% on the franchise fee itself. That is called "fee on fee." In Manchester, I believe the license fairly interpreted calls for AT&T Broadband to pay what is called "fee on fee." We have never done that in the past. In checking the license we believe that "fee on fee" is due to you and of course if it is due to you then...we don't keep any of the franchise fees we collect from customers but if we are going to pay "fee on fee" to the city then we would, of course, collected that from the customers. Five percent of five percent is a quarter of a percent. That yields an additional $\frac{1}{4}\%$ increase in the franchise fee. That is the first component. I believe the license was signed here in 1999. This is something that would be instituted for the first time here. The second component of the increase in the franchise fee is due to a ruling by the Federal Communications Commission in a decision involving the City of Pasadena, CA. It was a docket that was participated in by a number of cable companies and also by a number of towns and cities and also NATOA, which is the National Association of Telecommunications Offices and Associates. It is a national group representing towns and cities. This is commonly referred to as the Pasadena decision because the City of Pasadena was the prime entity in that docket. At issue in that case was whether subscribers, that is regular customers, should...whether cable companies can recover from customers the franchise fees paid by cable companies on revenues from advertising, home shopping and other non-subscriber sources of income. Normally a franchise agreement will not only say that you pay franchise fees on the revenues from customers, but you pay franchise fees as a percentage of gross income on revenues from other sources. In Manchester's case, the license does require that we pay franchise fees on what we call non-subscriber revenue. Primarily those are revenues that we get from advertising and home shopping. In accordance with the Pasadena decision what we did was we calculated the...we made a separate calculation for each franchise in our region and the calculation is the franchise fees paid on revenues from advertising and home shopping divided by the revenues collected from customers on video services. It turns out that that is about .42%. That was based on a calculation for calendar year 2001. When you combine the two elements of the franchise fee increase, the .25% from "fee on fee" if you will and the .42% from the Pasadena decision, you end up with .67%. Those are the two components of the letter that Mr. Reese sent to you. That, indeed, is the explanation. Of course, we don't keep the franchise fees. They come to you. We have given customers or plan to give customers very shortly in their upcoming bills notice of this increase. I believe, in the event that the franchise authority wishes to decline to continue to receive franchise fees on non-subscriber revenue, they can decline that. We won't pass that through to customers. That essentially would be redefining the term "gross revenues" in the franchise agreement. We have had some communities that have opted out so to speak. That is the explanation. I do have detail of the calculations and I would be happy to try and answer any questions that you may have.

Chairman Gatsas asked so the fees that you have been charging for the last two months, is that...

Mr. White interjected the change outlined in Mr. Reese's letter has not been implemented yet but I believe in the next 10 days or so it will be.

Mr. Reese stated we didn't implement anything in February because we wanted to go back and do a community by community calculation. The increase, I believe, is going into effect on April 8.

Mr. White stated let me clarify. Originally, we sent a letter to the City as well as other franchises in the Northeast region here indicating that the franchise fee increment, the additional increment of the franchise fee due to non-subscriber revenues would be .23%. We actually got a lot of concerns from...some from outside counsel from municipalities saying that we needed to calculate those town by town. We did that and it turned out that Manchester is a little higher but some towns were concerned that the .23% average was indeed a regional average and it wasn't town specific. So we went back and calculated it on a town specific basis. Perhaps that is some of the confusion. We did send out a second letter dated March 15, I believe, explaining that we had gone back and recalculated the Internet of the franchise fee on non-subscriber revenues and that is where we came up with the different percentage if that is helpful.

Chairman Gatsas asked you are planning to put this into effect when.

Mr. Reese answered I believe it is April 8.

Mr. White stated I believe we asked that if communities wanted to so-call opt out of the franchise fee increment on non-subscriber revenues to let us know by yesterday. We built in about a day or two timeline but actually what has to happen is in order to change the franchise fee percentage we have to put it in the billing system, which takes about a week to 10 days. So, we have had in the last couple of days a couple of communities opt out and we have been able to stop that component of the franchise fee increase. We have been able to stop it in the billing system so it won't be implemented.

Alderman O'Neil asked, Mr. White, you said that some communities have chosen to opt out of the franchise fee pass through is that correct.

Mr. White answered yes.

Alderman O'Neil asked can you tell me who those communities are.

Mr. White answered Portsmouth and Hampton in New Hampshire. In Massachusetts, Bellingham, Blackstone, South Hadley...

Alderman O'Neil asked who would have been sent the communication you referred to in the City of Manchester.

Mr. Reese answered I believe it would have gone to the Mayor and Aldermen. Those are typically where the notices go.

Alderman O'Neil stated I don't remember seeing that letter from you saying that we had a choice to opt out of that pass through. It doesn't mean you didn't send it but I don't remember seeing it.

Mr. Reese replied I am certainly willing to go back because I have copies obviously of all the letters and I can find the one that was sent to the City. I would be more than happy to do that tomorrow and get it to Mr. Normand.

Alderman Lopez stated just so that I completely understand, the .23% if we get out of it we still have the 5% franchise fee or is that deducted from the 5%.

Mr. White replied AT&T's franchise agreement with the City of Manchester requires that we pay a 5% franchise fee on gross revenues. What we have discussed here are two additional additions to that. One is an FCC ruling that says that franchise fees themselves are revenues so not only do we collect 5% of revenues but we have to collect 5% of 5%. That is an additional $\frac{1}{4}\%$ so that would be something that we read our franchise as requiring us to pay you. So we intend to pay you that in the future and then turn around and...of course we don't keep the franchise fees but we do itemize those on customer's bills. That is what I call the "fee on fee" component that will result in you actually collecting or us remitting to you 5.25% of gross revenues and customers paying 5.25%. The additional increment is a .42%. We are talking 42% of 1%. That is due to the fact that we pay you, in addition to 5% of customer's bills, we pay you 5% of revenues that we get from placing the advertising on our systems and also we get a small amount of commission from the home shopping channels each year. The additional franchise fee increments that we are allowed now under the Pasadena decision to charge customers is .42%. That is the relationship of the franchise fee for those revenue streams divided by all of the video revenue that we get from customers. So there are two pieces. If you opt out and decline actually what you are doing is in effect amending the cable license or restating it to waive the collection of the .42%. You will still be collecting 5.25%.

Alderman Lopez stated you mentioned Pasadena but I believe that an appeal has been filed with the circuit court. Does that have any bearing on it? Would you continue to proceed if there is an appeal in place?

Mr. White replied right now until overturned the Pasadena case is good law and frankly our corporate office looked at it and decided this was the way to go.

Obviously if Pasadena is overturned we could owe you some money back. That would be the argument. I am sure that will be the argument made by the cities and by NATOA, which is the trade group that represents municipalities before the Fifth Circuit.

Alderman O'Neil asked, Mr. Reese, did you send that letter on December 17.

Mr. Reese answered I believe so.

Alderman O'Neil answered then we would have received it. I am not sure we all received it but the City received it so I owe you an apology for that.

Chairman Gatsas stated Mr. White the 5% franchise fee that the City is currently receiving is not based on any of your revenue streams from the shopping networks or your advertising from the shopping network. Is that correct?

Mr. White replied no that is incorrect. Right now we pay you 5% of gross revenues. That includes not only revenue from customers and when they pay their cable bill, standard cable, they get 5% tacked on but we also pay you 5% of the revenues that we get from advertising and from home shopping. We just don't collect that from customers right now.

Chairman Gatsas asked you don't collect that from customers.

Mr. White answered we do not.

Chairman Gatsas asked so if I was John Q. Public and I get my bill on May 1 and if we as a City opt out of the 2.3% increase what would my bill show as a franchise fee.

Mr. White answered it will show 5.25% and the reason is that the franchise agreement calls for 5%. The Federal court has said that not only do we pay 5% on what I would think of as revenues, the money that we get from our customers sending in their checks and from advertising and home shopping but we also have to count franchise fees as revenue so we are paying not only 5% on the money we get but we are paying 5% on that 5%, which results in an extra .25% for a total of 5.25%. That is something we read the Manchester license to require us to pay. We haven't done it yet and in the letter that Mr. Reese sent in we are proposing to implement that in the future. For 2001 we paid the City 5% and effective mid-April we will start to pay you 5.25% and in turn we will collect 5.25% from customers. If you opt out of the additional .42% that would not be borne by customers. At the same time, you would be foregoing the franchise fee we have paid you in the past on advertising and home shopping.

Chairman Gatsas asked but we also could opt out of the .25% if we so chose.

Mr. White answered we could certainly arrange that, yes. Frankly, after the Dallas decision in 1997 it was MediaOne at the time and they offered all of the franchises in the entire region the opportunity to opt out and not a single one took us up on it. Not a single one said we want to forego the extra .25% but we certainly can...we are certainly happy to do that. We would rather do that. As a matter of fact, we would like to follow any procedures necessary to clarify our joint intention in that regard. The opt out that we sent in only pertains to the...not the .25% but we would certainly entertain the other side as well.

Chairman Gatsas asked what is the cost to a subscriber with the increase of .67%.

Mr. White answered on a \$30 bill it is \$.20 a month. The two together is .67%. You know 1% on a \$30 bill is \$.30 so it is \$.20 on a \$30 bill and \$.40 on a \$60 bill.

Alderman Guinta asked your 5% franchise fee is a fee that you pay to the City of Manchester.

Mr. White answered yes.

Alderman Guinta asked which is the fee that you charge each customer.

Mr. White answered yes.

Alderman Guinta asked how do you, based on gross revenue, know what your gross revenue is going to be. If you are charging me as a customer 5% every month what figure is it based on? Is it based on last year's revenue or expected revenue for this year?

Mr. White answered for revenue from customers it is easy because they have a charge on the bill and mathematically you can apply 5% to it. That is easy. If you have a \$30 bill, we know that it is \$1.50.

Alderman Guinta asked so for each new customer you have you add a 5% franchise fee.

Mr. White answered right. Every month there is a line item on the bill that says standard cable and you might have a converter box or remote or you might have premium pay-per-view or something like that and it totals those services and it applies a separate line item. It is straight math. It is 5%. In the case of revenues from customers it is very easy. It is just like paying sales tax in a department store. You know what it is and it goes right on your MasterCard or whatever. The calculation of franchise fees on advertising and home shopping is a little hard because obviously we don't know what they will be. We don't know exactly what

our revenues from advertising and home shopping will be in 2002. We knew what they were in 2001 and we can figure out that increment, the .42%. We intend to adjust that percentage each year so in 2003 we are going to go back and look at the increment calculation for 2002. Right now we know that we don't have to adjust our advertising revenues or actually we take rate increases each year so we are going to hopefully have more revenue from customers this year as well but we are not implementing this additional amount until mid-April so we have already missed a quarter of it. We missed January, February, March and part of April so we know that if we implement this .42% mid-April that on a calendar year basis we won't over collect. Next year we are going to go back and look and say was the .42% accurate or not and what we intend to do is put ourselves in a situation where we never over collect. We say we think our cable revenues will grow 10% or 15% and advertising will grow whatever it is and we are going to make an adjustment in 2003. So, the .42% will change but we intend to not get into a position where we ever over collect. We would like to collect exactly...we know that won't happen but if anything we would like a little under collect so that the customers don't overpay.

Alderman Guinta asked so customers don't overpay.

Mr. White answered right. We don't want to collect more from customers then we pay you. We don't keep the franchise fees.

Alderman Guinta asked why do you charge a customer a franchise fee.

Mr. White answered the franchise fee is in the license and it is allowed by the Cable Act. It is compensation for use of the City's rights of way and it also funds your PEG access programming under the 1992 Cable Act. Federal law says that there is a 5% cap. You are allowed to charge us up to a 5% franchise fee for using your rights of way. We are in your City streets.

Alderman Guinta asked does the law say that you have to charge your customers for that 5%.

Mr. White answered no it does not but it does say we can pass through the entire amount.

Alderman Guinta asked it says you can.

Mr. White answered yes.

Chairman Gatsas stated, Mr. Arnold, I guess you need to talk to our counsel, Mr. Epstein, on the letter that we received today and I am wondering if AT&T can give us another week so that we can make sure we have an understanding because I would like to see if this Committee would entertain waiving both of those fees on

the City's behalf - the .25% and the .42% since we have been trying to get you in here for a few weeks.

Mr. White replied we will go back tomorrow morning and call the billing people and tell them to stop the implementation of both pieces of the franchise increase to give you some additional time to study it.

Alderman O'Neil moved to table this item and refer it to the City Solicitor and Mr. Epstein with the understanding that the Committee wishes to waive both the .25% and the .42% additional franchise fees for a report back to the Committee as to what the letter means to the City of Manchester. Alderman Guinta duly seconded the motion.

Chairman Gatsas called for a vote. There being none opposed, the motion carried.

Deputy Solicitor Arnold stated I noted that Mr. White offered to give us a breakdown of how they calculated the additional fee. If he could provide that to me, I would like to see that.

Mr. White stated I would be happy to do that.

Alderman O'Neil asked, Mr. White, would it be possible to just do a summary...we have talked about a lot of different things tonight and I don't want to keep you and Mr. Reese here this evening, on the .25% and the .42% in layman's terms.

Mr. White asked right now.

Alderman O'Neil answered no but if one of you could do a follow-up to us. I would just be interested in who you have, Mr. Reese, as your point of contact with the City of Manchester. Is it one agency? Is it a number of agencies? Just for clarification.

Mr. Reese replied the gentleman behind you.

Alderman O'Neil asked Matt Normand is your single point of contact.

Mr. Reese answered yes. I have gotten a couple of calls from Tom Arnold but generally Matt is the person of contact.

TABLED ITEMS

6. Copy of a communication from Deputy Clerk Matthew Normand to Jerry Reese of AT&T Broadband regarding subscriber complaints.

On motion of Alderman O'Neil, duly seconded by Alderman Forest, it was voted to remove this item from the table.

Chairman Gatsas stated obviously the subscriber complaints are...I believe that probably they are fast and furious when things aren't right. Normally they don't call Matt to complain or Tom Arnold to complain but they probably call one of the 14 Aldermen and probably the Mayor to complain so I guess the problem is that when people are calling that there is no direct customer service person there to address a question and they could be put on hold for as long as they want to wait. I guess that is really where we are coming from. To see how we can subsidize some of these customer complaints that we are receiving that you aren't lucky enough to hear about.

Mr. Reese replied you are right. Just to give you a little background, last year was probably one of the most trying years that the company went through. I have been in the business for 19 years starting with Continental Cablevision and MediaOne, now AT&T Broadband. Most of that time was spent in New Hampshire. Last year what happened to us was we went through a couple of acquisitions of Cablevision properties in Massachusetts and then we also went through a 2 million customer billing conversion trying to get all of the customers on the same billing platform. The ultimate goal of that was to really be able to utilize customer care people efficiently because when you have a number of billing platforms they all don't speak the same language. That process, which started in late spring affected Nashua in July and affected the rest of New Hampshire in the August/September timeframe, caused lots of pain for our customers, which we understand and are not happy about. Since that time, the conversions have ended. We are now on one billing platform and I have seen and I hope Matt can back me up on this and if you don't, that is all right, but we have seen a substantial decrease in "on hold" times and customer complaints. Now I know the letter that Matt sent to me last December...that was at the tail end of the conversion and now what we are seeing and I would be happy to provide you statistics, we are now seeing our phone answer time go back and be able to meet FCC standards, which is 90% of the time within 30 seconds and abandonment rates, the report I saw this morning was for last week below 2%. So, it was a very painful process and I won't discount it at all. It is not where we want them to be. I think we are now on the upside of the curve. What also happened was that the call volume that we received because of the billing conversions was much more than we had ever planned for. Now that call volume has come down substantially, which in the numbers that I will be glad to share with you, you can see that the call volumes have come down. That plus between December and February of this year we hired an additional 107 customer care people so we have more staff on the phones as well. That is a long answer to that but I wanted to give you some background about where we were last year and I think where we are now and hopefully will continue to be for the rest of the year.

Chairman Gatsas asked, Matt, are you getting fewer complaints.

Deputy Clerk Normand answered I am not sure that we are getting fewer complaints. I know that the complaints have changed in a sense. We get quite a few complaints on the overall cost of cable, obviously, and the franchise fee or potential increase won't help matters any. The customer service complaints have certainly improved. Unfortunately people have repeatedly gone through troubles with customer service so it almost has become second nature to call us to deal with their problems, many of which we can deal with right over the phone without involving AT&T because we have had the calls numerous times before. I think as far as new customer service complaints, they are generally a little bit lower but we still get a significant amount of calls, probably 40 a month.

Chairman Gatsas asked what are those 40 a month.

Deputy Clerk Normand answered those 40 a month are ones that we have to involve AT&T. Probably 30-40 a month and I have records of all of those calls. We track each call that comes in whether we involve AT&T or not. All of the calls are documented so we can make sure that people are being dealt with and we don't have repeat calls.

Chairman Gatsas asked are they calling you first before they call AT&T or are they calling AT&T and not getting a response and then they are calling you.

Deputy Clerk Normand answered that was the problem initially with the letter that I sent to Mr. Reese in December. There are people who call now that have a bad taste in their mouth with customer service and they will get next month's bill and have an issue with the total cost of cable and they will complain but it is really not an issue that can be dealt with on either end, whether it is AT&T or the City. We have those people who call who refuse to call customer service because they have had a bad experience in the past but the amount of calls of people who just got cable service and they called AT&T and they had a problem, those have been reduced.

Mr. Reese stated the way Matt and I have been working it and it seems to work fairly well is either Matt or Troy, if they get some calls from subscribers, they just fax me the information, the customers name, address, account number and issue and either I take care of it or I send it on to a customer care professional. Prior to the first week of December my assistant took care of all of the calls herself and she unfortunately for me got called back to duty. So, now I am involved with a different group of people helping but typically we get those things resolved within 48 hours maximum.

Alderman Forest asked would those complaints come down a little bit if that little sentence on the back of the cable bill that you get that says if you have a problem

call City Hall and it gives the City Hall number were taken out. Would that reduce some of your calls?

Deputy Clerk Normand answered our number is on their bill currently and people do get confused actually and it works in reverse where they call us first and then we direct them to AT&T if they haven't had a problem yet with them but just have a general question. We send them to AT&T if we can't answer them.

Mr. Reese stated as a point of information for this Board, you are allowed by Federal law to write us a letter and say you want your name and phone number and address removed from the bill. I have only had one community do that and that was the town of Elliot, Maine. They wanted their name off the bill and they sent me a letter and we took their name off. The only thing that appears on the back of the bill in their case is their Federal Communication identification number. So, if you wanted to do that, you certainly can do that.

On motion of Alderman O'Neil, duly seconded by Alderman Forest, it was voted to receive and file this item.

Mr. Reese asked do you want to receive those phone statistics that I talked about. I would be glad to send them to Mr. Normand.

Chairman Gatsas answered yes.

8. Communication from Leo R. Bernier, City Clerk, submitting a petition to increase compensation to election officials.

On motion of Alderman O'Neil, duly seconded by Alderman Guinta, it was voted to remove this item from the table.

Clerk Bernier stated as you know we met a couple of weeks ago and what we did was revise the...if you look at proposal number 1 what we did was revise the Selectmen to the Ballot Inspector. We just dropped it one grade. The bottom line is it currently costs \$14,300 per election. If you support this proposal it will cost \$30,000. That is per election.

Chairman Gatsas asked is that the primary and general.

Clerk Bernier answered for two elections it would be \$60,000. It would be going up \$30,000 that you would have to appropriate for next year, FY03, for both elections.

Alderman Guinta asked do you mean primary and general.

Clerk Bernier answered that is correct. Proposal number two is just a flat rate. We just increased it by adding an additional \$50. If you look at the current salary and the proposed salary you will see that it is an additional \$50 per elected ward official. In that case, you go from \$14,000 to \$24,000. That would be a \$10,000 increase per election. Total cost would be \$20,000 per election year. Proposal number three is a 10% increase and if you look at the current salary, again it is \$150 for a Moderator and it would go up to \$165. That increase is about \$4,000 per election, which means that it would be \$8,000 for each year. If you look, I have also amended the Charter. If you look on the back page of proposal number three you will see “full compensation if such official should participate in a pre-election training session, should have complete and accurate paperwork requested and required by the City Clerk and shall perform their respective duties at the polling place of the ward in accordance with the State of New Hampshire law.” If they don’t meet that requirement, their compensation would drop 50%.

Alderman O’Neil asked did you include any additional money in your request to the Mayor.

Clerk Bernier answered in regards to these proposals, no.

Chairman Gatsas asked do you think you are going to find employees or...is the third proposal going to fit the bill for you or are you going to be back saying...

Clerk Bernier interjected as you know we just had an election and we talked to the elected officials and the majority of them supported proposal number one.

Alderman Forest asked weren’t the bulk of complaints from the workers the fact that they are working 16 or 17 hours.

Clerk Bernier answered they are long hours. You don’t have the dedication with the elected officials, even ward officials that we had 20 years ago. They get...the laws change and there are more demands on them and the average age for the group is 60 years old. You are asking them to work 15 or 16 hours. They start at 5 AM and I would say the majority of them and I am talking about the Moderators, Ward Clerks and even Selectmen don’t end their day until 9 PM or 10 PM. The problem we are having is that we are not meeting the requirements of State law with regards to having enough Ballot Inspectors and Selectmen. I think in Ward 6 we have a vacancy. I think Ward 7 has a vacancy. As soon as they find out how many hours they need to work and the requirements, interest drops rapidly. I really don’t have an answer to your question. I think we have all worked in the wards and the demands change.

Chairman Gatsas stated while we are at the beginning of the budget cycle, maybe what we ought to do is send this full communication, all three proposals rather than us picking and choosing one, maybe we send it to the full Board.

Alderman O'Neil asked are we willing to recognize that there is a problem out there and we need to do something to address it.

Chairman Gatsas answered I think we all understand that the employees who are participating certainly...

Alderman O'Neil moved to forward the three proposals to the budget deliberations recognizing that there is a problem that needs to be addressed. Alderman Guinta duly seconded the motion.

Chairman Gatsas called for a vote. There being none opposed, the motion carried.

7. Communication from Mark Tomaszewski regarding owning and operating a tattoo parlor in Manchester.

On motion of Alderman O'Neil, duly seconded by Alderman Forest, it was voted to remove this item from the table.

Chairman Gatsas asked, Matt, can you go over the communications that you and Health and the Building Department or maybe if we can get you all up to the microphone at once we can go through this pretty quickly. First, I would like to thank all three of you for all of the time and effort you have put into this issue because it certainly looks like you have met and come up with some constructive processes that we can look at and follow. Matt, I will let you begin.

Deputy Clerk Normand stated what we have here in your package are some recommendations that the staff committee, so to speak, put forward. Some of them involve some alterations to the zoning ordinance and it is fairly detailed in the sense that...the proposal would be that tattoo parlors be allowed in the Central Business District and they would be required to have a space between them of 600' so obviously the concern with everybody involved was that you would have a bunch of tattoo parlors all lined up on Elm Street or wherever. This was offered as a way to avoid that. We also talked about the 500' from any residential or civic zone and this was to keep them out of the proposed gaslight district. The final piece was obviously the repeal of the current ordinance, Section 130.10 that requires physicians to conduct tattooing. Again, all of this would be a policy decision by the Committee. Mr. Rusczeck obviously has voiced his concerns with tattoo parlors in the City so the staff just wanted to...these were our thoughts.

Chairman Gatsas asked can you give us...Alderman O'Neil and I were just discussing what 600' is like and I guess my analysis is two football fields. If we say from Hanover to Bridge Street is that right? Would you assume that that is...

Mr. LaFreniere interjected I am not sure that I am best equipped to...I think that from Hanover to Bridge would be further than that because the City block length that we are talking about in between that point is 100 feet. The rationale behind the distances though was to tie it into what we have already in place in the ordinance for the regulation of sexually oriented businesses and that is not to liken this business to a sexually oriented business, not to liken tattoo parlors per say to them, however, the rationale seems to be in place within the context of the existing ordinance as to how to regulate a concentration of businesses within the Central Business District. That is how we tie in to those specific distances.

Alderman Guinta asked do we regulate any other businesses in the Central Business District with regards to how far apart they can be from one another.

Mr. LaFreniere answered only the sexually oriented businesses. Those are the only other businesses that have an overlay restriction upon them that regulates how close they can be to one another.

Alderman Guinta asked is there a reason we do that for those type of businesses and not other businesses.

Mr. LaFreniere answered the rationale is actually stated in the zoning ordinance and it is an intent to prevent the concentration of any of these types of businesses within any specific areas of the downtown, the Central Business District, recognizing that these businesses may have the right to exist should a policy decision be made to move in that direction but that there is a concern that a concentration of these businesses in any specific area might tend to have an adverse effect on the business community downtown. I might use this opportunity to interject there was one additional recommendation that we had placed in the next to the last paragraph whereby we had suggested that this may be an issue where you want to seek some input from Intown Manchester looking specifically at the downtown area where this type of business may be located and that would certainly be up to the judgement of the Committee as to whether that was something you wanted to pursue or not.

Alderman O'Neil stated, Leon, you signed off on the letter. Are you in favor of everything that is on this letter?

Mr. LaFreniere replied as I understood our charge, I think that this provides a mechanism whereby we can initiate a control, initiate a mechanism by where we can permit this type of business in the City where it has been specifically prohibited save for application by a licensed physician in the past so I would be concerned that my response would be interpreted as an endorsement of the...

Alderman O'Neil interjected if the Board decided that we were going to allow tattooing in the City of Manchester, is this the best we are going to get it.

Mr. LaFreniere replied as one member of this group that sat together I would recommend this type of approach at least initially. We may have some experience after implementation of some changes to the ordinances that would indicate that we should provide a broader opportunity for these businesses to take place. I think this is a good first step to see how things might go.

Alderman O'Neil asked Fred or Matt if the Board decided that we were interested in allowing tattoo parlors to operate in the City is this probably the best we are going to get it right now.

Mr. Rusczek answered yes, Alderman, I believe it is. This was prepared after thoughtful and careful analysis of the matter of tattoo parlors and particularly careful thought about not changing the nature of the downtown by having too many within one area. That is what also led to the recommendation that perhaps before this is finalized just to make certain that we have dotted all of the i's and crossed the t's that perhaps Intown Manchester should have an opportunity to report back on this.

Deputy Chief Normand stated I would just second what Fred said. It wasn't a decision that we took lightly and there was a lot of thought that went into it. I personally believe that this is a fairly win-win situation, not only for the City but for the people who petitioned.

Alderman O'Neil asked could we move this forward or are you suggesting we hold it up and not move it forward and wait for input from Intown. Could we...I imagine this is going to end up at Bills on Second Reading at some point. Could we send it there and also ask Intown for their input?

Deputy Chief Normand answered I think Intown could provide their response in the meantime while it is being sent to Bills on Second Reading.

Alderman Lopez stated for clarification north, south, 600' from the business, I go 600' and I get a permit and there is another business and I go 600 more feet...

Mr. LaFreniere interjected yes essentially that is the case.

Alderman Lopez asked so there will be no tattoo shops. There are no sex shops in Manchester are there?

Mr. LaFreniere answered yes there is. It does narrow down the number of opportunities, however, there would be opportunities.

Alderman Lopez asked there is a place in the City of Manchester and you are saying 600' feet that somebody could put up a tattoo shop if the Board approved it.

Mr. LaFreniere answered yes.

Alderman O'Neil moved to approve the ordinance and recommend that it be referred to the Committee on Bills on Second Reading.

Deputy Solicitor Arnold stated I would note that this is an amendment to the zoning ordinance, which has a statutory procedure, including a public hearing attached to it.

Alderman Guinta asked what is the motion.

Alderman O'Neil answered to recommend this to the full Board and send it to Bills on Second Reading for a public hearing and follow the proper procedures.

Alderman Guinta asked at what point does it make sense to have Intown Manchester's input.

Alderman O'Neil answered I think certainly they should be copied on the memo from Leon and asked for their input. They certainly can give that input at Bills on Second Reading.

Alderman Guinta asked so if this motion passes it goes where.

Alderman O'Neil answered to the full Board and then the full Board would hopefully refer it to the Committee on Bills on Second Reading.

Alderman Guinta asked and Intown Manchester would have input...

Chairman Gatsas answered at Bills on Second Reading.

Alderman Guinta asked but not before.

Alderman O'Neil answered there is no...once it leaves here there is really no in-between.

Alderman Guinta asked we could also hold a hearing and have them provide their input here right.

Alderman O'Neil answered we could but there is going to be a public hearing on it at Bills on Second Reading. I don't see why we should hold it. We should at least, out of respect to the people who requested this, attempt to keep it moving somewhat. That doesn't mean it is guaranteed that it is going to pass but we generally meet once a month. My opinion is it would give Intown plenty of time

to review it and let the Bills on Second Reading Committee if not the full Board know of any concerns they may have with it.

Alderman Osborne asked are all of these recommendations in stone or can they be changed at any time as far as insurance. Are we going to be licensing...

Deputy Clerk Normand interjected under this proposal the City won't be licensing but the State will be licensing as they currently do in other communities.

Alderman Osborne asked so this can be changed at any time.

Deputy Clerk Normand answered you could always amend the ordinance if it were to pass with the theory that is being proposed now. I know that Fred Rusczek was a little apprehensive about getting involved in licensing where the State already does their licensing.

Alderman Osborne replied I don't have any problem with that, I have a problem with health and policing these places. The State has a lot of time to do this. Can the City get involved as far as the Health Department? I don't know if liability insurance is involved in some places with this or not. Does that go through the State? Does the State require some kind of liability insurance?

Deputy Clerk Normand responded Fred might be able to answer that better than I.

Mr. Rusczek stated whatever the State would have for licensing requirements, and frankly I don't recall if it requires liability insurance on the part of the business operations.

Alderman Osborne stated where they are doing the licensing that is the reason...they would have the ability to probably carry liability or not carry it. True? Like a taxicab. Same situation? They are required to carry liability insurance with the City of Manchester. True? Well you wouldn't know that.

Mr. Rusczek stated taxicabs are licensed by the City so the City would put those requirements upon them. If the tattoo parlors are licensed by the State it would be up to the State to put that on them.

Alderman Osborne stated I am just trying to see that we are protecting the people of Manchester as far as tattoos if something happened with infections or whatever it might be. Insurance plays a big role I think.

Deputy Clerk Normand stated there are a couple of members of the industry here tonight and one of them, who is currently licensed, stated that the State of New Hampshire requires \$1 million liability insurance policy to be licensed.

Alderman Osborne replied I think the taxis is the same way. I think it is \$1 million.

Deputy Clerk Normand responded taxis are \$500,000 here in the City.

Alderman Osborne replied well at one time I think it was \$1 million.

Deputy Clerk Normand responded it was \$1 million.

Alderman Osborne stated I know, I remember, I put it through.

Alderman Forest duly seconded the motion to approve the ordinance and refer it to the Committee on Bills on Second Reading.

Chairman Gatsas called for a vote on the motion. The motion carried with Alderman Guinta duly recorded in opposition.

9. Hiring of a Contract Compliance Officer for the City.

This item remained on the table.

10. Suggestion to send letters to non-profit organizations asking them for payment in lieu of taxes made by former Alderman Pariseau at the 11/20/01 BMA meeting and referred to the Committee on Administration.

This item remained on the table.

Appeals of the denial of taxi driver's licenses.

On motion of Alderman O'Neil, duly seconded by Alderman Guinta, it was voted to enter non-public session under the provisions of RSA 91-A:3 II(c) to discuss the denial of a taxi driver's license application. A roll call vote was taken. Aldermen Gatsas, Guinta, Osborne, Forest and O'Neil voted yea. The motion carried.

Non-public session ensued with Mr. Bergeron, the operator; Mr. Normand, Deputy Clerk of Licensing and Facilities; committee members and the Clerk present. Mr. Normand explained the reasons for his denial were based on his criminal record involving misconduct in 1998. Mr. Bergeron presented his side explaining that his disqualifying criminal conviction is four and a half years old and, therefore, he should be allowed to obtain his license.

On motion of Alderman O'Neil, duly seconded by Alderman Forest, it was voted to return to public session.

Alderman O'Neil moved to deny the appeal of the taxi license application for Mr. Bergeron. Alderman Guinta duly seconded the motion. Chairman Gatsas called for a vote. There being none opposed, the motion carried.

There being no further business, on motion of Alderman O'Neil, duly seconded by Alderman Forest, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee